IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APELLATE SIDE

FAMILY COURT APPEAL NO.61 OF 2001
With
FAMILY COURT APPEAL NO.80 OF 2001
With
FAMILY COURT APPEAL NO.81 OF 2001

Family Court Appeal No.61 of 2001

Baban Santoshrao Shobhane. .. .. Appellant

V/s.

Sou.Nanda Baban Shobhane. .. .. Respondent

Mr.M.R. Deshpande for Appellant.

Mr.A.G. Toraskar for Respondent.

W I T H

Family Court Appeal No.80 of 2001

Sou.Nanda Baban Shobhane .. Appellant
(Org. Respondent)

V/s.

Shri Baban Santoshrao Shobhane .. Respondent
(Org. Petitioner)

W I T H

Family Court Appeal No.81 of 2001

Sou.Nanda Baban Shobhane & ors. .. Appellants
(Org. Petitioners)

V/s.

Shri Baban Santoshrao Shobhane. .. Respondent
(Org. Respondent)

Mr.A.G. Toraskar for Appellants.

Mr.M.R. Deshpande for Respondent.

CORAM : H.L.GOKHALE, &
R.S.MOHITE, JJ.

DATED : 21ST DECEMBER 2004

P.C. :

1. F.C.A. 61 of 2001 and F.C.A. 80 of 2001 are both filed to challenge the judgment and order rendered by the Family Court, Pune in Petition No.432 of 1997. F.C.A. 61 of 2001 is filed by the husband whereas F.C.A. 80 of 2001 is filed by the wife. The above referred Petition No.432 of 1997 was filed by the husband Baban Santosh Shobhane seeking divorce under section 13(1)(i)(ia) and (ib) of the Hindu Marriage Act, 1995. The judgment rendered by the Judge of the Family Court, Pune accepted the grounds raised by the husband and dissolved the marriage by a decree of divorce. The judgment also directed certain amount of maintenance to be paid to the wife Nanda. It also made certain arrangement with respect to the matrimonial home of the parties.

2. F.C.A. 61 of 2001 is filed by the husband Baban being aggrieved by the award of maintenance whereas F.C.A. 80 of 2001 is filed by the wife Nanda since she is aggrieved by the grant of divorce.

3. F.C.A. 81 of 2001 is filed by the wife Nanda against the judgment and order passed by the Family Court, Pune in Petition No.29 of 1997 on 30th September 2000 dismissing the said petition. That petition was filed under sections 18 and 20 of the Hindu Adoption and Maintenance Act seeking appropriate orders. The wife Nanda has filed F.C.A. No.81 of 2001 being aggrieved by that order.

4. All the three appeals were admitted and were to be heard together since the parties to the proceedings were common and the issues involved were also inter-related. When the matter reached before this court for final hearing, a question came up with respect to the exact area of the matrimonial house occupied by the parties. The house consists of two rooms on the ground floor and two on the upper floor. Therefore, an officer of the Family Court at Pune was directed to make a report. That order was passed on 8th December 2004. The officer appointed by the Family Court has made a report on 15th December 2004 and we have taken the same on record. Thereafter, when the matter proceeded, efforts were made by the counsel for both the parties to see to it that the

matter is amicably settled. They have succeeded in their efforts. Mr.Toraskar for the wife Nanda and Mr.Deshpande for the husband Baban have tendered the consent terms signed by both the husband and wife as well as by both the learned advocates. The consent terms are taken on record and marked Exhibit "A" for identification. Under these consent terms, the parties have agreed in clause 6 thereof for a decree of divorce by mutual consent. In view of this understanding arrived at by both the parties, Petition No.432 of 1997 filed by the husband Baban shall be treated as a joint petition by Baban and Nanda under section 13B of the Hindu Marriage Act and shall be treated as an amended petition. The necessary statutory period will also be treated as expired inasmuch as more than that period has passed after the filing of the initial proceeding. In view of these consent terms signed by the parties and presented to the court, the marriage between Baban and Nanda solemnised on 19th February 1981 is hereby dissolved under section 13B of the Hindu Marriage Act. The parties have withdrawn all the adverse allegations made against each other under clause 4 of these consent terms. Therefore, all those allegations shall be treated as dropped.

5. The wife Nanda has agreed to give up any claim for maintenance for herself and for her son. The husband Baban has also agreed that one room, which is in his possession, will be given to the unmarried daughter Meenakshi after his death. He will execute the necessary document for that purpose. It is agreed between the parties that the two rooms on the ground floor and one on the upper floor presently in the occupation of the wife Nanda shall continue to remain with her and the one room on the upper floor in occupation of the husband will remain with him.

6. It is also recorded between the parties that they shall live peacefully in their separate premises without any quarrel and will not create any problem for each other.

7. The consent terms and the undertaking contained therein are accepted and the parties are directed to act accordingly.

8. All the three appeals stand disposed of.

H.L.GOKHALE, J.

R.S. MOHITE, J.